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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,109	10/15/2001	Takaki Arai	JG-TT-5104 / 500568.20031	3737
7590	05/18/2004		EXAMINER	
Jules E. Goldberg, Esq. Reed Smith LLP 375 Park Avenue New York, NY 10152			SIEFKE, SAMUEL P	
			ART UNIT	PAPER NUMBER
			1743	

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/978,109

Applicant(s)

ARAI ET AL.

Examiner

Samuel P Siefke

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues, "Yaginuma does not disclose having at least two porous membranes in the barrier layer... Yaginuma discloses that the air barrier layer has pores, the polymer barrier layer has no pores." The Office would like to point to column 6, lines 31-37, which states specifically that membrane filters which can be used **air barrier layers** include those made from polymers consisting of polypropylene and polyethylene material. In column 6, lines 14-19, Yaginuma describes that an air barrier layer consists of a porous material with connected pores in which a layer of air functions essentially as a barrier layer. Therefore the air barrier layer can be made from polymer consisting of polypropylene or polyethylene material.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **1-5** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yaginuma et al. (USPN 5,008,078).

Yaginuma discloses an integral multi-layer analysis for the determination of ammonia or an ammonia-producing substance comprising a transparent support (col. 3, lines 11-12), an indicator layer containing an indicator which produces a detectable change by gaseous ammonia (col. 3, lines 13-15), a liquid blocking layer (polypropylene, polyethylene) permitting a gaseous ammonia to pass there through (col. 3, lines 16-17; col. 6, lines 1-64; col. 8, lines 57-65), a reagent layer containing an alkaline buffering agent and optionally a reagent capable of reacting with said ammonia-producing substance to produce ammonia (col. 3, lines 18-20), and a spreading layer (col. 32), adhesively laminated in this order (col. 3, lines 8-10). The air barrier layer thickness can range from 30  $\mu\text{m}$  to about 300  $\mu\text{m}$  (col. 6, lines 37-41). The pore size of the air barrier layer ranges from 0.01  $\mu\text{m}$  to 20  $\mu\text{m}$  (col. 6, lines 44-47).

Yaginuma does not teach the improvement which comprises that the liquid blocking layer is composed of at least two porous membrane layers.

Yaginuma states that there is a danger that liquids, especially liquid with contain interfering substances such as alkaline materials in solution, will pass through the barrier layer as a result of a capillary action within the voids in the case of air barrier layers made of porous materials. Then goes onto say that the barrier is treated with a hydrophobic or water repellent to the extent that capillary flow due to the above mentioned capillary action does not occur (col. 7, lines 56-68). It would have been obvious to one having an ordinary skill in the art to modify the multi-layer analysis of Yaginuma to incorporate another air barrier layer to add an extra level of protection against allowing a liquid to migrate through to the indicator layer and render the multi-layer useless.

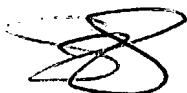
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel P Siefke whose telephone number is 571-272-1262. The examiner can normally be reached on M-F 7:00am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sam P. Siefke



May 5, 2004



Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700